

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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RONNIE FENN, #212 548

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Plaintiff,

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v.

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2:04-CV-1227-WKW  
(WO)

MARSHALL WILLIAMS, *et al.*,

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Defendants.

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RONNIE FENN, #212 548

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Plaintiff,

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v.

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2:05-CV-14-WKW  
(WO)

MARSHALL WILLIAMS, *et al.*,

\*

Defendants.

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**RECOMMENDATION OF THE MAGISTRATE JUDGE**

This 42 U.S.C. § 1983 action was filed by Plaintiff on December 22, 2004. On February 23, 2005 the court entered an order of procedure which instructed Plaintiff, among other things, to inform the court of any change in his address. (Doc. No. 10.)

It recently came to the court's attention that Plaintiff is no longer residing at the most recent address he provided to the court. Consequently, the court entered an order on

September 5, 2006 directing Plaintiff to provide the court with his present address on or before September 14, 2006. ( Doc. No. 45.) Plaintiff was cautioned that his failure to comply with the court's September 5 order would result in a recommendation that this case be dismissed. (*Id.*) On September 13, 2006 Plaintiff's copy of the court's September 5 order was returned to the court marked "Returned to Sender, Not Here." Because it is clear that Plaintiff is no longer residing at the most recent address he provided to the court and as he has neither informed the court of his current address nor responded and/or complied with the orders of this court, the court concludes that this case should be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action properly and to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before September 26, 2006. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual

findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5<sup>th</sup> Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 14<sup>th</sup> day of September 2006.

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**/s/ Delores R. Boyd**  
DELORES R. BOYD  
UNITED STATES MAGISTRATE JUDGE